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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,776	01/21/2004	Bradford C. Banta	003-71	6134
47360	7590	07/26/2007		
JAMES E. BRUNTON, ESQ. P.O. BOX 29000 GLENDALE, CA 91209				
			EXAMINER FIGUEROA, ADRIANA	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 07/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/762,776

Applicant(s)

BANTA, BRADFORD C.

Examiner

Adriana Figueroa

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 5/07/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |                                                                                                                       |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 4, 6, 7, 9, 10, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Leone (US 5,961,242).

Regarding claim 1, Leone discloses a bracket assembly having first (16) and second (18) cooperating brackets aligned in a confronting relationship and connector means comprising first (52) and second (58) bolts, (Figure 2, annotated Figure 4). The phrase “for interconnecting said first and second cooperating brackets to the first and second elongate structural members and to each other” is considered intended use and is given no patentable weight.

Said first and second bracket each having a generally planar surface having a first portion (F) and second portion (S), said first portion engaging the first elongate structural member (12) and said second portion engaging the second elongate structural member (14); a first wall (1) connected to and extending generally perpendicularly from said first portion of said generally planar surface for engaging the first structural member; a second wall (2) connected to and extending generally perpendicularly from said second portion of said generally planar surface for engaging the second structural member; a third wall (3) connected to and extending generally

perpendicularly from said second wall; and a fourth wall (4) connected to and extending generally perpendicularly from said third wall for engaging the first structural member, (Figure 2, annotated Figure 4).

Regarding claim 4, Leone discloses the bracket assembly including a fifth wall (5) connected to and extending generally perpendicular from said second portion (S) of said generally planar surface for engaging the second structural member, (annotated Figure 4).

Regarding claim 6, Leone discloses the bracket assembly in which each of said first (F) and second (S) portion of said generally planar surfaces of said first and second brackets are generally rectangular in shape, (annotated Figure 4).

Regarding claim 7, Leone discloses the bracket assembly in which each of said first (F) and second (S) portions of said generally planar surfaces has a major axis (a, c) and a minor axis (b, d), said major axis (a) of said second portion (S) extending at an angle with respect to said major axis (c) of said first portion (F), (annotated Figure 4).

Regarding claim 9, Leone discloses the bracket assembly in which said major axis (a) of said second portion (S) extends at an angle of less than ninety degrees with respect to said major axis (c) of said first portion (F), (annotated Figure 4).

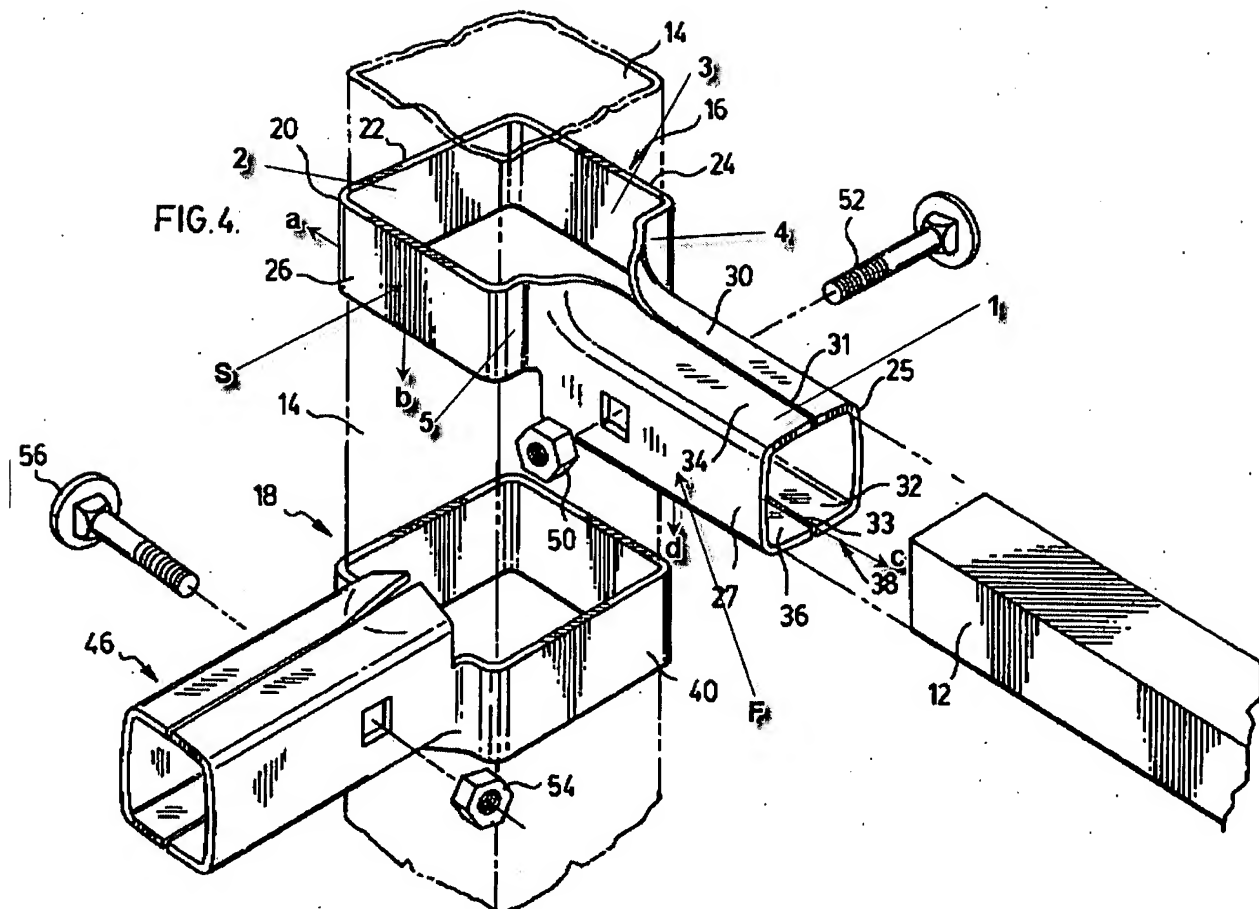
Regarding claim 10, Leone discloses a bracket assembly having substantially identical first (16) and second (18) cooperating brackets aligned in a confronting relationship and connector means (52, 58), (Figure 2, annotated Figure 4). The phrase "for interconnecting said first and second cooperating brackets to the first and second

elongate structural members and to each other" is considered intended use and is given no patentable weight.

Said first and second bracket each having a generally planar surface having a first portion (F) and second portion (S), said first portion engaging the first elongate structural member (12) and said second portion engaging the second elongate structural member (14); a first wall (1) connected to and extending generally perpendicularly from said first portion of said generally planar surface for engaging the first structural member; a second wall (2) connected to and extending generally perpendicularly from said second portion of said generally planar surface for engaging the second structural member; a third wall (3) connected to and extending generally perpendicularly from said second wall; and a fourth wall (4) connected to and extending generally perpendicularly from said third wall for engaging the first structural member; a fifth wall (5) connected to and extending generally perpendicular from said second portion (S) of said generally planar surface for engaging the second structural member, (annotated Figure 4).

Regarding claim 14, Leone discloses the bracket assembly in which each of said first (F) and second (S) portions of said generally planar surfaces has a major axis (a, c) and a minor axis (b, d), said major axis (a) of said second portion (S) extending at an angle with respect to said major axis (c) of said first portion (F), (annotated Figure 4).

Regarding claim 16, Leone discloses the bracket assembly in which said major axis (a) of said second portion (S) extends at an angle of less than ninety degrees with respect to said major axis (c) of said first portion (F), (annotated Figure 4).



Leone (US 5,961,242)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 5-8, 10, 11, 13, 15, 17, 19, 20, 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Leek (US 2004/0079034).

Regarding claim 1, Leek discloses a bracket assembly having first (m) and second (n) cooperating brackets aligned in a confronting relationship and connector means comprising first and second bolts (80), (Figures 1, 3, annotated Figure 11). The phrase "for interconnecting said first and second cooperating brackets to the first and second elongate structural members and to each other" is considered intended use and is given no patentable weight.

Said first and second bracket each having a generally planar surface having a first portion (F) and second portion (S), said first portion engaging the first elongate structural member (60) and said second portion engaging the second elongate structural member (70); a first wall (1) connected to and extending generally perpendicularly from said first portion of said generally planar surface for engaging the first structural member; a second wall (2) connected to and extending generally perpendicularly from said second portion of said generally planar surface for engaging the second structural member; a third wall (8) connected to and extending generally perpendicularly from said second wall; and a fourth wall (7) connected to and extending generally perpendicularly from said third wall for engaging the first structural member, (annotated Figure 11).

Regarding claim 5, Leek discloses a bracket assembly in which said third wall (8) of each of said first and second assembly brackets is generally triangular in shape, (annotated Figure 11).

Regarding claim 6, Leek discloses a bracket assembly in which each of said first (F) and second (S) portion of said generally planar surfaces of said first and second brackets and generally rectangular in shape, (Figure 11).

Regarding claim 7, Leek discloses a bracket assembly in which each of said first (F) and second (S) portions of said generally planar surfaces has a major axis (a, c) and a minor axis (b, d), said major axis (a) of said second portion (S) extending at an angle with respect to said major axis (c) of said first portion (F), (annotated Figure 11).

Regarding claim 8, Leek discloses a bracket assembly in which said major axis (a) of said second portion (S) extends at an angle of about ninety degrees with respect to said major axis (c) of said first portion (F), (annotated Figure 11).

Regarding claim 10, Leek discloses a bracket assembly having substantially identical first (m) and second (n) cooperating brackets aligned in a confronting relationship and connector means (80), (Figures 1, 3, annotated Figure 11). The phrase "for interconnecting said first and second cooperating brackets to the first and second elongate structural members and to each other" is considered intended use and is given no patentable weight.

.said first and second brackets each having a generally planar surface having a first portion (F) and second portion (S), said first portion engaging the first elongate structural member (60) and said second portion engaging the second elongate



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structural member (70); a first wall (1) connected to and extending generally perpendicularly from said first portion of said generally planar surface for engaging the first structural member; a second wall (2) connected to and extending generally perpendicularly from said second portion of said generally planar surface for engaging the second structural member; a third wall (8) connected to and extending generally perpendicularly from said second wall; and a fourth wall (7) connected to and extending generally perpendicularly from said third wall for engaging the first structural member; a fifth wall (10) connected to and extending generally perpendicular from said second portion (S) of said generally planar surface for engaging the second structural member, (annotated Figure 11).

Regarding claims 2 and 11 Leek discloses a bracket assembly in which said connector means comprises a first bolt (80) for interconnecting said first portion (F) of said generally planar surface with the first elongated structural member (60) and a second bolt (80) for interconnecting said second portion (S) of said generally planar surface with the second elongate structural member (70), (annotated Figure 11).

Regarding claim 13, Leek discloses the bracket assembly in which said third wall (8) of each of said first (F) and second (S) assembly brackets is generally triangular in shape, (annotated Figure 11).

Regarding claim 15, Leek discloses a bracket assembly in which said major axis (a) of said second portion (S) extends at an angle of about ninety degrees with respect to said major axis (c) of said first portion (F), (annotated Figure 11).

Regarding claim 17, Leek discloses a bracket assembly having first (m) and second (n) cooperating brackets and connector means comprising spaced apart bolts (80), (Figures 1, 3, annotated Figure 11). The phrase "for interconnecting together said first and second cooperating brackets and for connecting said first and second cooperating brackets to said first and second elongate structural members", is considered intended use and is given no patentable weight.

Said first and second brackets each having a generally planar surface having a first portion (F) and second portion (S), said first portion engaging the first elongate structural member (60) and said second portion engaging the second elongate structural member (70); a first wall (1) connected to and extending generally perpendicularly from said first portion of said generally planar surface for engaging the first structural member; a second wall (2) connected to and extending generally perpendicularly from said second portion of said generally planar surface for engaging the second structural member; a generally triangular shaped third wall (8) connected to and extending generally perpendicularly from said second wall; a fourth wall (7) connected to and extending generally perpendicularly from said third wall for engaging the first structural member; and a fifth wall (10) connected to and extending generally perpendicular from said second portion (S) of said generally planar surface for engaging the second structural member, (Figure 5, annotated Figure 11).

Regarding claim 19, Leek discloses a bracket assembly in which each of said first (F) and second (S) portions of said generally planar surfaces has a major axis (a, c)

and a minor axis (b, d), said major axis (a) of said second portion (S) extending at an angle with respect to said major axis (c) of said first portion (F), (annotated Figure 11).

Regarding claim 20, Leek discloses a bracket assembly in which said major axis (a) of said second portion (S) extends at an angle of about ninety degrees with respect to said major axis (c) of said first portion (F), (annotated Figure 11).

Regarding claim 21, Leek discloses a bracket assembly having first and second substantially identical cooperating brackets (1) disposed in engagement with the first (60) and second (70) elongated structural members in a confronting relationship, each of said first and second brackets comprising:

a generally planar surface having a first generally rectangular portion (F) and second generally rectangular portion (S), said first generally rectangular portion engaging the first elongate structural member (60) and said second generally rectangular portion engaging the second elongate structural member (70);

a first wall (1) connected to and extending generally perpendicularly from said first portion of said generally planar surface for engaging the first structural member;

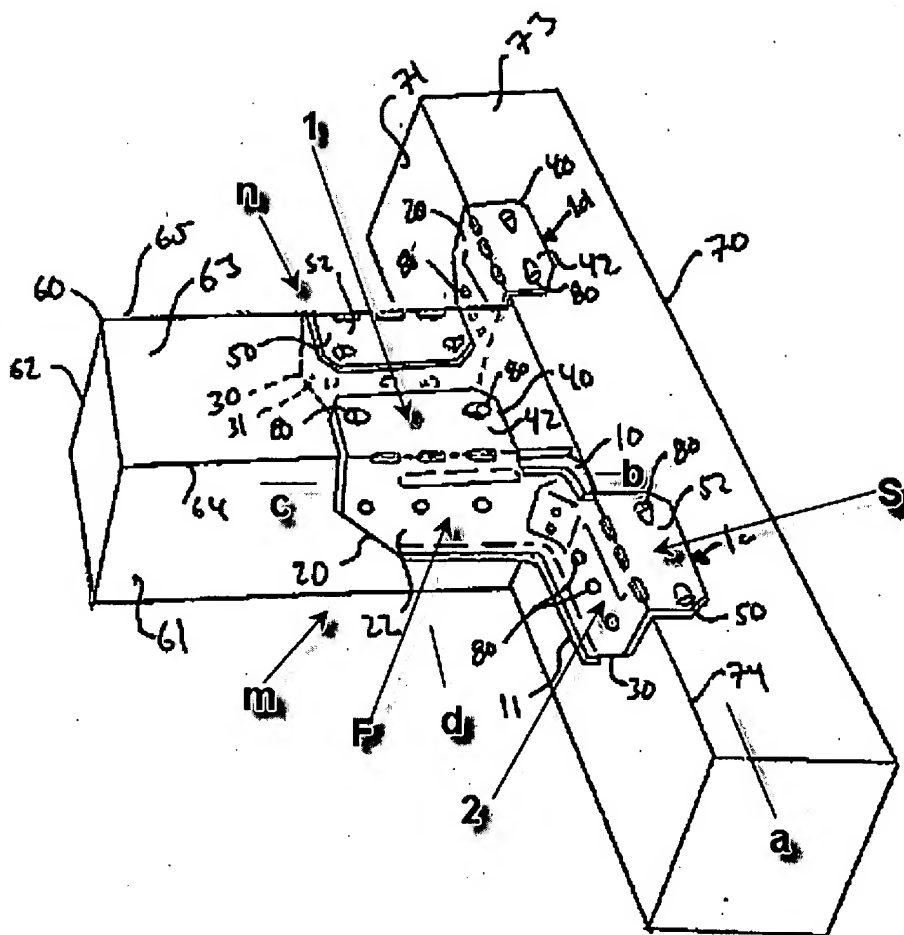
a second wall (2) connected to and extending generally perpendicularly from said second portion of said generally planar surface for engaging the second structural member;

a generally triangular shaped third wall (8) connected to and extending generally perpendicularly from said second wall;

a fourth wall (7) connected to and extending generally perpendicularly from said third wall for engaging the first structural member;

and a fifth wall (10) connected to and extending generally perpendicular from said second portion (S) of said generally planar surface for engaging the second structural member, (Figure 5, annotated Figure 11).

first and second spaced apart connector members (80), (Figure 3). The phrase "for interconnecting together said first and second cooperating brackets and for interconnecting said first and second cooperating brackets with the first and second elongated structural members" is considered intended use and is given no patentable weight.



**FIGURE 11**

Leek (US 2004/0079034)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3, 12, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leek (US 2004/0079034) in view of Moehlenpah (US 4,209,265). Leek discloses as discussed in claims 1, 10 and 17, but does not disclose a bracket assembly in which each of said first (F) and second portions (S) of said generally planar surface of each of said first and second brackets is provided with a plurality of spaced apart, lanced out areas which form protruding tabs for penetrating the first and second elongate structural members. However, Moehlenpah teaches a bracket assembly (N) having protruding tabs (T), (Figures 1, 4). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the bracket assembly of Leek to include lanced out areas as taught by Moehlenpah in order to provide a stronger connection.

***Double Patenting***

4. Applicant is advised that should claims 4 and 5 be found allowable, claims 10, 13, 17 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that

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they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 2 and 11 have been considered but are moot in view of the new ground(s) of rejection.

Claims 1, 10 and 17 have been amended to include the limitations "said bracket assembly comprising first and second cooperating brackets aligned in a confronting relationship". Examiner asserts that the prior art of Leone in Figure 2 and Leek still anticipate this limitation as the brackets are aligned in a confronting relationship.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walstrom (US 2,365,501) teaches a bracket assembly having a first and second cooperating brackets aligned in a confronting relationship and connector means having first and second bolts for interconnecting the brackets to each other and to the elongate structural members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adriana Figueroa whose telephone number is 571-272-8281. The examiner can normally be reached on Monday-Friday 8:30am - 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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LANNA MAI  
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